

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA                    )  
  )  
v.   ) Criminal No. 04-10047-RCL  
  )  
  )  
LUIS RODRIGUEZ                                )

MOTION TO MODIFY ORDER OF APPOINTMENT OF COURT MEDICAL EXPERT

The United States of America, by its undersigned counsel, is in receipt of the Court's March 16, 2006 Order of Appointment of Court Medical Expert. As written, the Order appears to preclude counsel for the government from showing any report issued by Dr. Gross to anyone including personnel at the Bureau of Prisons ("BOP") who will be responsible for assessing the defendant's condition and BOP's ability to care for him once he is placed in their custody. The government believes that *this* will be the crucial question at sentencing. E.g., United States v. Hilton, 946 F.2d 955 (1st Cir. 1991) (physical disorder that could be accommodated by prison facilities was not an "extraordinary physical impairment").

Because of the foregoing, the government is requesting that it be permitted to disclose any reports issued by Dr. Gross to the Bureau of Prisons so that BOP can assess its ability to treat the defendant while he is incarcerated and that the Court's March 16, 2006 order be so modified. The government also expects that the Order, as modified, would also require BOP to maintain the

report as confidential.

In accordance with Local Rule 7.1, the undersigned states that he has conferred with defense counsel who does not have an objection to this Motion.

MICHAEL J. SULLIVAN  
United States Attorney

By: /s John A. Wortmann, Jr.  
JOHN A. WORTMANN, JR  
Assistant U.S. Attorney  
617-748-3207